IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 2179 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/09/2004 in WVMP NOS 2061 & 2574 OF 2004 IN WPMP NO. 9592 OF 2004 IN WP NO: 7354 of 2004 on the file of the High Court.)

Between:

Shankavaram Fisheries Cooperative Society Limited, shankavaram rep by President M. Appa Rao, S/o Appa Rao R/o Vaishnav Colony, Shankavaram East Godavari District

..... APPELLANT

AND

1 The Government of A.P. rep by its Secretary, Irrigation & CAD

Department, Secretariat, Hyderabad
2 The District Collector, East Godavari District at Kakinada
3 The Superintendent Engineer, Irrigation Circle, Doweleswaram East

Godavari District
4 The Executive Engineer, Irrigation Department, Peddapuram Division

East Godavari District
5 The Harani Fibre Yards & Work shop 53-3-11/1. Vishnalayam Street,

Jagannadhapuram, Kakinada, East Godavari District rep by Proprietor

D. Hara Gopal
6 The Assistant Director Fisheries, Kakinada East Godavari District

.....RESPONDENTS

Counsel for the Appellant: MS.M.VIDYAVATHI

Counsel for the Respondents 1 to 4 & 6: GP FOR IRRIGATION & COMM AREA DEV.

Counsel for Respondent No.5: Mr.D.V.Sitarama Murthy

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The appeal is against the order passed by the learned single Judge on 24.9.2004 vacating the interim order dated 27.4.2004 made in WPMP No.9592 of 2004 filed in W.P.No.7354 of 2004. Thus WVMP Nos.2061 and 2574 of 2004 also stood decided along with WPMP NO.9592 of 2004. The interim order was vacated by placing reliance on the earlier order of vacation passed in W.P.No.12325 of 2003 dated 31.7.2003.

The order in the said case was vacated on the ground that the lease period had expired whereas in the instant case this was not the factual situation and the lease was subsisting. Therefore, the order passed by the learned single Judge is wholly on an irrelevant ground. The learned single Judge did not go into the question as to whether interim stay was to be continued or ought to have been vacated on such of the ground as were taken by the respondents in their vacate applications. Accordingly, we allow the appeal setting aside the impugned order with a direction that WPMP NO.9592 of 2004 along with WVMP Nos.2061 and 2574 of 2004 would be decided afresh in accordance with law. The writ petition be posted before the learned single Judge on 7.3.2005.

DEVINDER GUPTA, CJ

Dated 17.02.2005

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B.SESHASAYANA REDDY,J

msv

To

1 The Secretary, Irrigation & CAD Department, Secretariat, Government

of A.P. Hyderabad.

2 The District Collector, East Godavari District at Kakinada

3 The Superintendent Engineer, Irrigation Circle, Doweleswaram East

Godavari District.

4 The Executive Engineer, Irrigation Department, Peddapuram Division

East Godavari District.

5 2 CCs to the Government Pleader for Irrigation and CAD, High Court

of A.P. Hyderabad. (OUT)

6 2 CD copies.

7 One copy to Section Officer, Writ Filing Section, High Court of A.P. Hyderabad.